

October 23, 2017

Mr. Devin M. Leary
Human & Rohde, Inc.
512 Virginia Avenue
Towson, Maryland 21286

RE: St. Paul's School for Boys,
Ratcliffe Hall Upper School
Forest Conservation Variance
Tracking # 02-17-2574

Dear Mr. Leary:

A request for a variance from Article 33, Title 6, Baltimore County's Forest Conservation Law was received by this Department on July 7, 2017. This initial request, assigned tracking # 02-17-2509, proposed to base the afforestation required by Section 33-6-111 of the Forest Conservation Law on a 2.8-acre limit of disturbance (LOD). An updated variance application, received October 3, 2017 and assigned tracking # 02-17-2574, requests that this afforestation be based on a reduced 2.5-acre (LOD) for the current upper school renovation rather than the entire 34-acre school parcel. Furthermore, it is acknowledged that the project's LOD involves 0.6 acre that previously met its Forest Conservation obligation in 2009 as part of the Fisher Hall Addition, which is to remain. Therefore, the net tract area to be considered for the current variance is 1.9 acres. The applicant proposes to address the resultant 0.4-acre afforestation requirement at an Environmental Protection and Sustainability (EPS) approved forest retention bank.

This variance also seeks approval for the removal of six specimen trees to facilitate relocation of Saint Paul's Lane, the campus loop road. Of the six specimen trees to be impacted, all are in good condition and five are native. The applicant proposes to pay a fee-in-lieu of mitigation for the five native specimen tree to be removed, should the variance be granted.

The Director of EPS may grant a special variance to the Forest Conservation law in accordance with criteria outlined in Section 33-6-116 of the Baltimore County Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the three criteria under Subsection 33-6-116 (d) must be met, and all three (3) of the criteria under Subsection 33-6-116 (e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116 (d)(1) of the Code) requires that the petitioner show that the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of his property. The applicant is seeking to renovate educational facilities at a school that existed well prior to the effective date of the Forest Conservation Law. Full application of the law to the entire parcel would result in an unwarranted hardship to the applicant, but it would not deprive the applicant of all beneficial use of the property. Therefore, we find that this criterion has not been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions in the neighborhood. The reconstruction of the upper school and the relocation of the campus loop road, as proposed, is due to unique circumstances associated with providing updated educational facilities on the school property rather than the general conditions in the neighborhood. Therefore, we find that this criterion has been met.

The third criterion (Subsection 33-6-116 (d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. Only 2.5-acres of the 34-acre school parcel is proposed for educational improvements in association with this variance request. Furthermore, the reconstruction efforts will not result in a change in use of the property. Therefore, we find that this criterion has been met.

The fourth criterion (Subsection 33-6-116 (e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. A Forest Buffer Easement (FBE) was established to protect the stream systems onsite as part of the previous Fisher Hall addition. The protective covenants governing that FBE are being honored. Additionally, the proposed reconstruction will comply with current stormwater requirements. Therefore, we find that granting of the special variance will not adversely affect water quality and that this criterion has been met.

The fifth criterion (Subsection 33-6-116 (e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance which is the result of actions taken by the petitioner. The petitioner has not taken any actions necessitating this variance prior to its request. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116 (e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Reducing the planting obligation based on the limit of disturbance for a redevelopment activity on the existing campus and permitting the impacting of six specimen trees while accepting a fee-in-lieu of mitigation

for the five native trees would be consistent with the spirit and intent the Forest Conservation Law. Therefore, this criterion has been met.

Based upon our review, this Department finds that all of the above criteria have been met. Therefore, the requested variance is hereby approved, in accordance with Section 33-6-116 of the Baltimore County Code, with the following conditions:

1. This project's 0.4-acre afforestation obligation may be addressed by either paying an \$8,712.00 fee-in-lieu or by purchasing 0.4-acre of credit in an EPS-approved forest retention bank. A bank authorization letter, which shall serve as the instrument of agreement with the bank's representative, has been enclosed for your use. The signed bank letter shall be returned to this office indicating that retention bank credit has been purchased or the fee in lieu paid to EPS prior to issuance of any grading permit.
2. A \$5,438.68 fee-in-lieu of mitigation for the removal of the five native specimen trees in good condition shall be paid to Baltimore County prior to this Department's approval of the grading permit. Fee checks must be made payable to Baltimore County.
3. Blaze orange high visibility fence shall be installed along the limit of disturbance (LOD) wherever the LOD is within 50 feet of any specimen tree to remain and any FBE. This protective fence shall be illustrated on the plan view and mentioned in the sequence of operations on the sediment control plan and the final forest conservation plan (FCP). Installation of this fence shall be inspected and approved by EPS staff prior to issuance of any grading or building permit
4. A forest conservation plan (FCP) must be submitted, and approved by EPS prior to issuance of any permits. The grading plan or the forest conservation variance plan may be used as a base plan for the FCP, provided a note is added indicating how forest conservation was met.
5. This variance applies solely to the Ratcliffe Hall Upper School and the realignment of St. Paul's Lane in that vicinity. This variance approval does not exempt future construction activities on this site from complying with Baltimore County's Forest Conservation Law. Furthermore, a special variance to the Forest Conservation Law may be required for future removal of any specimen trees shown to remain on the grading plan and FCP.

Mr. Devin M. Leary
St. Paul's School for Boys, Ratcliffe Hall Upper School
Forest Conservation Variance
October 23, 2017
Page 4

6. The following note must appear on all subsequent plans for this renovation project stating:

“A special variance was granted on October 23, 2017 to Baltimore County's Forest Conservation Law to apply the requirements to the Ratcliffe Hall Upper School's limit of disturbance as opposed to the net tract acreage. Conditions were placed on this variance, including providing for 0.4 acre of afforestation and paying a specimen tree fee-in-lieu of \$5,438.68 into Baltimore County's Forest Conservation fund.”

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and an amended variance request.

Please have the appropriate school representative sign the statement on the following page and return a signed copy of this entire letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If you have any questions regarding this correspondence, please contact Mr. Michael Kulis at (410) 887-3980.

Sincerely yours,

David V. Lykens
Deputy Director

DVL/msk

Enclosure

C. Marian Honeczy, Maryland DNR

Mr. Devin M. Leary
St. Paul's School for Boys, Ratcliffe Hall Upper School
Forest Conservation Variance
October 23, 2017
Page 5

I/we agree to the conditions enumerated in this approval letter to bring my/our property into compliance with Baltimore County's Forest Conservation Law.

School Representative

Date

Printed Name